

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RONALD J. SERZYSKI,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-2594-CM
)	
CERTAINTEED CORP.,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

This case was filed by plaintiff, proceeding pro se, on November 18, 2009. On November 19, 2009, the undersigned determined that plaintiff's financial affidavit accompanying his application for leave to file this action without payment of fees or security was incomplete and ordered him to file a supplemental financial affidavit. Plaintiff filed a supplement affidavit on November 24, 2009. Based on that supplemental affidavit, the undersigned concluded that plaintiff has sufficient financial resources to pay the court's filing fees and, on November 24, 2009, denied plaintiff's request for leave to proceed *in forma pauperis*. Plaintiff was ordered to pay the \$350 filing fee by December 11, 2009. The court advised plaintiff that, if the required fee was not received by the specified date, the undersigned magistrate judge would recommend to the district judge that the case be dismissed in its entirety.

The court sent plaintiff the November 24, 2009 order by regular and certified mail. The certified mail copy was received on December 2, 2009 (*see* doc. 7). To date, plaintiff

has failed to pay the required filing fee. Therefore, the undersigned recommends that this case be dismissed without prejudice for failure to pay the \$350 filing fee.

Plaintiff is hereby informed that, within 14 days after he is served with a copy of this report and recommendation, he may, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72, file written objections to the report and recommendation. Plaintiff must file any objections within the 14-day period allowed if he wants to have appellate review of the proposed findings of fact, conclusions of law, or the recommended disposition. If plaintiff does not timely file his objections, no court will allow appellate review.

A copy of this report and recommendation shall be mailed to plaintiff by regular and certified mail.

Dated this 15th day of December, 2009, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge